

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH JACKSON,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. 1:16-CV-194
(Criminal Case No. 1:14-CR-215)

HON. GORDON J. QUIST

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court sentenced Joseph Jackson in the underlying criminal case to 204 months incarceration plus 10 years of supervised release on August 19, 2015.¹ The Court held an evidentiary hearing on December 18, 2018, limited to the issue of whether Jackson instructed his trial counsel in the criminal case, Federal Public Defender Ms. Sharon Turek, to file an appeal of his sentence after he was sentenced to 204 months for drug trafficking. 28 U.S.C. § 2255. Based on the evidence presented in Court, the Court finds as follows:

1. The Court informed Jackson of his right to appeal his sentence after sentence was imposed and informed him that he had 14 days in which to file the notice of intention to appeal.
2. Jackson was informed of his appellate rights by his attorney, Federal Public Defender

Sharon Turek:

- Ms. Turek told Jackson of his right to appeal.

¹ At the sentencing, the Court reduced Jackson's Offense Level from 38 to 33, thereby reducing Jackson's Guideline range from 324-405 months to 188-235 months.

- Ms. Turek sent a letter to Mr. Jackson on August 20, 2015, informing Jackson of his right to appeal and confirming, “. . . you instructed me not to file a Notice of Appeal. Therefore, I have not filed a Notice of Appeal on your behalf. If, however, you change your mind, you have 14 days from the entry of the Judgment within which to appeal. Therefore, you must let me know on or before September 2, 2015, if I am to file an appeal.” Jackson received the letter.
3. Jackson was capable of reading the letter, and, if not, was capable of having someone read it to him. Jackson understood that he had a right to appeal and was capable of instructing Ms. Turek to file the Notice of Appeal.
 4. Having been informed of his right to appeal and the time frame in which the Notice had to be filed, Jackson decided to forgo filing an appeal and did not instruct Ms. Turek to file a Notice of Appeal.
 5. Jackson has failed to prove by a preponderance of the evidence that his trial counsel, Sharon Turek, rendered ineffective assistance to Jackson.

Therefore, a separate Judgment will be entered in favor of the United States and against Joseph Jackson.

Dated: December 19, 2018

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE